

ANGOSTURA UNIT  
CONTRACT NEGOTIATION AND WATER MANAGEMENT

PUBLIC HEARING  
ON THE  
DRAFT ENVIRONMENTAL IMPACT STATEMENT

\* \* \* \* \*

February 15, 2001  
1:00 - 5:00 PM  
Oglala Lakota College  
3 Mile Creek  
Piya Wiconi Road  
Kyle, South Dakota

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Conducted By:

MR. KENNETH PARR  
U.S. Bureau of Reclamation  
515 Ninth Street, Room 101  
Rapid City, South Dakota 57701

and

U.S. Bureau of Reclamation  
Dakotas Area Office  
Bismarck, North Dakota

Thursday, February 15, 2001

MS. CLAUSEN: I would like to take this time to welcome all of you to this public hearing. And before we get started Guy has honored us with offering to say our opening prayer. So if everyone would stand.

(Opening prayer was offered in Lakota by Mr. White Thunder.)

MR. PARR: Thank you, Kim. Thank you, Guy. We appreciate that. I going to go through about 10 or 15 minutes of some brief introductions, and then we're going to open it up for comments, and then it looks like we have a bad storm coming in, so that's why I'm going to keep my stuff brief and spend all the time we can with the Tribal people here.

I want to thank the Pine Ridge Reservation, the people of the Pine Ridge Reservation and President John Yellow Bird Steele to allow us to come here and hold this public hearing. Thank you very much.

Why are we here for this public hearing on the Angostura Draft Environmental Impact Statement is because the water service contract with the Angostura Irrigation District expired in 1995, and with that expiration we're responsible for complying with the National Environmental Policy Act. And at the request of the Oglala, through John Yellow Bird Steele, we are completing an Environmental Impact Statement on that

1 contract renewal. But in the interim, the irrigators do need  
2 water, so we have temporary water service contracts that will  
3 be going through 2002 to provide water to the irrigators on  
4 the Angostura Irrigation District.

5 In addition to the National Environmental Policy  
6 Act process we are responsible for doing contract negotiations  
7 with the Angostura Irrigation District. So after we complete  
8 the EIS, we'll be negotiating a contract with the District.  
9 Products that will come out of those two processes, the  
10 contract negotiation and NEPA, is a Record of Decision and the  
11 other process is a signed contract.

12 In the EIS that we have mailed out, and by the  
13 way, if you have not received an EIS, I have lots of copies  
14 here, so I would be more than happy to share those with anyone  
15 who wishes one.

16 Within that Draft Environmental Impact Statement  
17 we have not identified a preferred alternative. One of the  
18 reasons or the reason why we did not identify a preferred  
19 alternative is because the Oglala Sioux Tribe asked us not  
20 to. They would like to see what the public has to say, both  
21 the Indian and non Indian public. So there is no decision  
22 that has been made at this time and no preferred alternative  
23 has been identified in that Draft EIS.

24 Just to get us orientated here, the Angostura  
25 Irrigation District is in southwest South Dakota, down by Oral

1 and Hot Springs. It is a prairie-fed reservoir, mostly from  
2 Wyoming and Nebraska, with most of the watershed from up here  
3 in Wyoming in the prairie. The study area basically is the  
4 drainage area; Angostura Reservoir, the Irrigation District,  
5 and then following the Cheyenne River all the way into the  
6 Cheyenne River Indian Reservation.

7 Well, with an EIS there's an EIS process that we  
8 started four years ago. We visited here four years ago to do  
9 what's called scoping, to get your input, and we collected  
10 that input and developed alternatives in that Draft EIS.  
11 There's four alternatives being analyzed in that. After we --  
12 excuse me, let back up here a second. After we completed the  
13 scoping we drafted the alternatives and we wrote a Draft EIS,  
14 and that's what we're talking about today.

15 NEPA only requires a 45-day comment period, but  
16 we are conducting a 90-day comment period, and that goes  
17 through April 27th. So if you haven't spent time with the  
18 Draft EIS, we have a couple months here still to go, so go  
19 ahead and read that. Look at that, and give us some  
20 comments.

21 After we complete this public review we'll be  
22 finalizing the EIS or completing a Final EIS, and that will  
23 be distributed for your review. There will be somewhere  
24 around a 30- to 60-day comment period, and in that Final EIS  
25 there will be a Record of Decision.

1           So that's the EIS process coming up. If you add  
2 all those months up, those days I was talking about, that's  
3 about six or seven months down the road that a final decision  
4 should be made on this process. That doesn't mean that that  
5 decision is final. There are other processes after that. If  
6 you do not like our decision, that can be obviously  
7 challenged.

8           There are several chapters in an EIS, and when  
9 you open it, this is what you're going to see. There will be  
10 a summary. There will be an explanation of what the purpose  
11 and need for the project is. And again that purpose and need  
12 is contract renewal with the Angostura Irrigation District.

13           There's an alternative section on affected  
14 environment. The environmental impacts, consultation and  
15 coordination that we completed in developing that Draft EIS,  
16 and then the appendices. The skinny part is the written part  
17 of the EIS, and the fat part is the appendices of the EIS. So  
18 this is just what -- most of our studies are in here and then  
19 the analysis is in here. So after we get done here, if you  
20 need help explaining how to get through this document, I would  
21 be more than happy to help there.

22           MS. CLAUSEN: If there's other members that  
23 aren't here that would like copies, I have extra copies in my  
24 office, too. If you don't get a chance, I have extra copies.  
25 So feel free to come in my office and pick them up, too.

1           MR. FARR: NEPA or the National Environmental  
2 Policy Act also requires us to get cooperating agencies, to  
3 get other people out there who have expertise in this field to  
4 give us a hand with this Draft EIS. These are the cooperating  
5 agencies that have assisted us: The Irrigation District,  
6 Bureau of Indian Affairs, Cheyenne River, Lower Brule and  
7 Oglala Sioux Tribes, NRCS, South Dakota Department of  
8 Environment and Natural Resources, the South Dakota Department  
9 of Game Fish and Parks, and USGS.

10           The federal government has a trust responsibility  
11 to work with Indian tribes, and we have the responsibility to  
12 determine whether we impact Indian trust assets of those  
13 tribes. We went out and wrote letters and called tribes,  
14 several tribes to see if they would like to participate in  
15 that EIS, and three tribes under our government-to-government  
16 responsibility came forward and said that, yes, we want to  
17 participate.

18           And the one tribe, through John Yellow Bird  
19 Steele, requested this Environmental Impact Statement to be  
20 completed, instead of an environmental assessment. So again,  
21 three tribes have come forward to participate in this  
22 process.

23           Let's talk about submitting comments here for a  
24 minute, and then I'll probably just open it up for discussions  
25 here. What I would like to do today is to get oral comments

1 from the people here participating in this public hearing. So  
2 oral comments today, and your comments will be recorded  
3 through our transcriber here, Lynne Ormesher, and also, Kim,  
4 will introduce the interpreter?

5 MS. CLAUSEN: If you want to speak Lakota, that  
6 is fine. George is going to interpret that so it will be  
7 recorded. So feel free to speak Lakota if you want to, that's  
8 perfectly fine. In addition, if you want any assistance with  
9 comments and stuff, also call us and we will help you develop  
10 comments. Ken will help you. If you want to write it down,  
11 call my office, or call Ken's office. We'll get George to  
12 come in and help, so whatever way you need to do it, just call  
13 us and we'll help you with that. So George is going to go  
14 ahead and interpret anything.

15 I kind of apologize KILI was supposed to be  
16 here. They are down at another meeting, so we got our wires  
17 crossed.

18 MR. PARR: As Kim was saying, there's another way  
19 also to provide your comments if you do not wish to speak  
20 today. We would like to get your comments written, and either  
21 way, whether they are written in English or in Lakota is fine  
22 with us. The other way, if you do not wish to give us written  
23 comments today, you can also mail us your comments.

24 Up front we had, and at the stations we have the  
25 little comments cards. So if you would like to fill those

1 out, and either fill them out today or mail them to us later,  
2 that would be greatly appreciated.

3 After we're done with the public hearing today,  
4 what I would like to do is then just open it up for general  
5 discussions, like an open workshop, if you wish to just have  
6 a dialogue with the Bureau of Reclamation or our specialists  
7 that are here. We have some specialists here that will be  
8 assisting us, if you wish, if you want some additional  
9 information, and that's what these different stations are  
10 for, to visit with the specialists afterwards, to talk about  
11 the different issues that we presented in this Draft EIS.

12 Under the EIS and contract process we have Dan  
13 Lechefsky and John Boehmke for NEPA and our Billings office.  
14 On the environment we have Jerry Heiser from our Bismarck  
15 office. On water quantity and water quality we have Conrad  
16 Jordheim and Jim Yahnke and Curt Anderson. I want to make  
17 sure I introduce Curt today; we forgot about him yesterday.  
18 And then on socioeconomic, Indian trust assets, and cultural  
19 resources, we have Steve Piper and Kimball Banks. So you can  
20 visit with them afterwards just to talk to our specialists.

21 If we had a large group here there would be some  
22 kind of meeting rules that we would follow. I'm not even  
23 going to go through this overhead. The only thing that I ask  
24 today when we give our presentations, our comments today, is  
25 to please speak loudly and clearly. I will give you the

1 microphone, because it's important for our transcriber here  
 2 to get your comments down. Before you begin speaking I would  
 3 like you to just give your name, and either what community  
 4 you're representing or a program you're representing here on  
 5 the Pine Ridge Reservation.

6 Is there anything I forgot?

7 MS. CLAUSEN: Or if you're a member of the Oglala  
 8 Sioux Tribe, you don't have to be with a program. Like  
 9 landowners, if you want to comment on behalf of the  
 10 landowners.

11 MR. TALL: By what date do the written comments  
 12 have to be in?

13 MR. PARR: The written comments have to be in --  
 14 we set a date of April 27th, okay. And again, if there is an  
 15 extension needed, please contact us and we'll talk to you  
 16 about that.

17 MR. TALL: Is there anybody in here that can  
 18 provide an historical overview of this whole water  
 19 management?

20 MR. PARR: Yes, there are people here that can do  
 21 that for you.

22 MR. TALL: I think that would really help us out,  
 23 the historical management part, how it came about, an  
 24 historical overview of it from the beginning.

25 MR. PARR: Okay we can do that, and I would like

1 to ask for your patience. I need to get through this public  
 2 hearing, just as a formality.

3 MR. TALL: It's hard to comment unless we have  
 4 historical background talk what we're talking about on the  
 5 management.

6 MR. PARR: Okay, we will do that today, but I do  
 7 need to -- let me get through the comments part first and then  
 8 I will have people come up here, some of our specialists and  
 9 we'll talk about that. If I could do the hearing first, just  
 10 get that out of the way, then we'll talk about the issues that  
 11 concern you.

12 Then what I'll do is I'll shut the public  
 13 hearing down and we'll just conclude it and then we'll visit.  
 14 We'll visit with the people that can provide us the history  
 15 that you're asking for. This is kind of selfish of me, but  
 16 we did that four years ago. And I know that's a long time  
 17 ago, and maybe we should have been here at least once a year  
 18 doing this, bringing everyone up to speed, but we did not do  
 19 that.

20 But as a requirement of the National  
 21 Environmental Policy Act, I'd just like to get through the  
 22 hearing and get the comments down from the elders, from the  
 23 president and members of the reservation, and then we'll  
 24 bring the specialists up and we'll go over those issues,  
 25 especially that history of the project. That will be good.

1 Thank you very much.

2 Well, that concludes my introductions. I would,  
3 out of respect for the elders here on the reservation, I would  
4 either like to open it up for the elders of the tribe to  
5 speak, or to the president of the tribe. So the microphone is  
6 open now.

7 MR. STEELE: Thank you, Kenneth. I would like to  
8 begin by saying today my statements are from myself. I  
9 reserve the right to get formal written comments approved by  
10 the Tribal Council at a later date.

11 I was going to start out by giving, from our  
12 perspective, the history of this water management. It's  
13 going to be a little different from what the Bureau of  
14 Reclamation says. Back in the 1930s, '40s, I don't know  
15 which one was associated with which, Mr. Pick and Mr. Sloan,  
16 both were trying to do water management, one on the Missouri  
17 River main stem, the other on the tributaries to the Missouri  
18 River.

19 They couldn't get this accomplished with the  
20 United States Congress until they teamed up and went in and  
21 got Congress to pass the Pick-Sloan Act. This resulted in  
22 dams being built on the Missouri River for flood control and  
23 other purposes, hydroelectric power, recreation. It all  
24 sounds fine, but when you come down to look at the strategic  
25 places that these dams are at on the main stem river, they are

1 in places that flooded out Indian reservations.

2 They didn't flood out any other she-to (sp)  
3 towns, but whole Indian towns had to be moved. On the  
4 tributaries, which we are talking about here, the Cheyenne  
5 River, the Bureau of Reclamation guy, I don't know whether it  
6 was Mr. Pick or Mr. Sloan again, strategically put these dams  
7 in front of every reservation, thereby drastically reducing  
8 the stream flow, causing wildlife, vegetation and  
9 environmental changes in that area.

10 So I say the water management that the federal  
11 government will be telling you isn't going to show this. Why  
12 don't they admit this, because of social and economic  
13 hardships. All we've been asking for throughout history is  
14 justice, fairness. This is the fourth draft of this EIS. You  
15 were given how it came about. Let me tell you how I see how  
16 this EIS came about.

17 I was president in 1996. In '98 across my desk  
18 comes this letter saying that the contracts with the  
19 irrigators of the Angostura dam had run out. Also, Mr. Pete  
20 Capossela, sitting back there, called me and told me that,  
21 John, these are contracts that were in place for 40 years,  
22 40-year contracts just ran out. This is the time to take a  
23 little advantage of this. We should ask for an EIS,  
24 Environmental Impact Statement under the NEPA regulations.

25 So I had a meeting in Rapid City with

1 Commissioner Euluid Martinez out of Washington, the head guy  
2 of the Bureau of Reclamation. Mr. Dennis Breitzman, the head  
3 of Bureau of Reclamation in our area here out of Bismarck.  
4 This EIS just didn't come about. They wanted us to okay  
5 signing contracts, 25-year contracts with those irrigators.

6 That meeting didn't go very well at all in Rapid  
7 City. I threatened to take them to court because renewing  
8 those contracts would have negatively impacted the Pine Ridge  
9 Indian Reservation and the people on the Pine Ridge. When  
10 that meeting in Rapid City broke up, we left there not  
11 friends. A while later Mr. Dennis Breitzman came to Pine  
12 Ridge and they made 180-degree turn on it, and said they would  
13 be willing to then go with a complete EIS.

14 They originally said it was too lengthy, too  
15 costly. And I appreciated their turning around, but they  
16 needed those contracts in place. Also I realized spring was  
17 here, those irrigators needed water. No contracts. So for  
18 the last three years -- like I say, this is the fourth draft  
19 of this EIS, and I would like to thank Mr. Capossela and Kim  
20 here for being involved over these three years. The tribe  
21 sort of was a little uninvolved in the last couple of years  
22 here.

23 To begin comment on this EIS, I need to make a  
24 statement here that the watershed area that feeds Angostura is  
25 on unceded Lakota territory, partially Black Hills, partially

1 1868 treaty area. Through Oral history our ancestors tell us  
2 this land is still ours. In 1980 the United States Supreme  
3 Court called it the most ripe and rank case in the history of  
4 these United States, the illegal taking of the Black Hills,  
5 part of this watershed.

6 The United States government unilaterally  
7 decided. We didn't agree to sell it. They said we're buying  
8 it at this price, and they appropriated the moneys. We will  
9 not accept those moneys. The land is not for sale. So again,

10 **10** [I say that a hundred percent of that water, I lay claim to it  
11 on behalf of the Sioux Nation because it comes from our  
12 watershed and all the unrelinquished prior water rights that  
13 go with that water.]

14 Mr. Parr says the Bureau of Reclamation has a  
15 trust responsibility; he's right. I thank him for saying  
16 that, but you didn't go far enough. A trust responsibility  
17 to work with and to see that the tribes aren't negatively  
18 impacted by this project and the resources. 1851 and 1868  
19 treaties establish this unique relationship with the United  
20 States government.

21 And in the words of courts, the tribes and its  
22 members are wards of the federal government, and this trust  
23 responsibility extends far and beyond what you just described  
24 here. We look to this on every federal employee that comes  
25 in here, on how they are exercising this trust responsibility

**10.** Noted.

1 on our behalf, not only in observing, working with, but also  
2 in protecting and enhancing them. That's what we see from  
3 our trustee, and that's in all areas of looking out for,  
4 protecting and enhancing, dealing with land, water, the  
5 welfare, education, health.

6 I would like to comment a little bit on the dam  
7 itself up there. It was finished in 1954 -- I may be wrong on  
8 this -- for hydroelectric power and irrigation and flood  
9 control --

10 MR. PARR: Flood control and irrigation.

11 MR. STEELE: -- flood control and irrigation, and  
12 now they tell us it takes legislation to change any other uses  
13 of it.

14 MR. PARR: Priorities, yes.

15 MR. STEELE: How did recreation, fish and  
16 wildlife and the Oelrichs water line get in there without  
17 legislation? The dam was built for the economic benefit of  
18 World War II veterans. Not one Oglala veteran is an  
**11** 19 irrigator. [I don't see any benefits to the Oglala Sioux  
20 Tribe or any of its members whatsoever.]

**12** 21 [The reason we ask for the EIS in the beginning  
22 is because Red Shirt Village complained about the fish they  
23 caught, that they had sores on them; that when their children  
24 swam in the river, they got a rash; that there were no longer  
25 any berries along there like there used to be.] These are the

1 reasons we gave the BOR saying that that dam negatively  
2 impacted the river, and we wanted the Environmental Impact  
3 Statement.

**13** 4 [Kim here and Joe Amiotte with our water  
5 department had several tests done on those fish for all  
6 different kinds, heavy metals, different chemicals, and the  
7 report came back that the sores were caused by river stress,  
8 which means a lack of stream flow and the water being  
9 polluted.]

10 The social and economical parts of this book, I'm  
11 offended by those pages. I believe it's about 96 to 98. This  
12 book supposedly is supposed to be factual to come out with an  
13 alternative. It gives our unemployment at 54 percent, that's  
14 just to show you what the book says is factual. You know we  
15 lived with this throughout history, supposedly factual written  
16 comments, in school textbooks, in reports given so that  
17 certain peoples can benefit.

**14** 18 [On page 97, in there it says the Cheyenne River  
19 Sioux Tribe and Oglala Sioux Tribe probably have Winters  
20 Doctrine water rights. What "probably"? Why "probably"? Our  
21 trustee wrote this down. We do have.] I told you people from  
22 Red Shirt Village said the berries up there had really gone  
23 down since the dam was built. This factual book will tell you  
24 it's because land use changes. It's because of the cattle  
25 grazing and the fires that there's no more berries.

**11.** The Angostura Unit does provide benefits to the OST: Flood control in the Cheyenne River, and the dam generally maintains flows in the river year-round. In addition, the Tribe benefits through secondary spending at the Tribal casino or other Tribal businesses by people in agricultural-related or recreation-related industries in the Angostura area. It is true that the unit does not provide a direct economic benefit—such as irrigation—to the Tribe.

**12.** The analysis of fish health in the EIS found that lesions on fish caught near Red Shirt were caused by parasites, not by the Angostura Unit (see pp. 70-73 in the EIS). Chokecherry, American plum, and silver buffaloberry, identified by the OST as the plants of concern, were all found to be predominately upland plants, and thus unaffected by the unit (pp. 98-99).

**13.** See the response to comment No. 12 above. The report (Appendix Z) further states that more study of water quality is needed to determine if river stress is an issue (p. Z-98).

**14.** The statement will be changed in the final EIS. Reclamation recognizes that the OST has unquantified Winters Doctrine reserved water rights. Until such time as the Tribe chooses to quantify these rights, however, Reclamation cannot do more that recognize that these rights exist.



1 We know that that dam, no silt comes down it.  
 2 It stays in that dam. We know that the river dries up.  
 3 There's no water there. That's why the berry trees aren't  
 4 there anymore. This factual book is getting out of  
**15** 5 responsibility, being responsible for it. [The people of Red  
 6 Shirt Table blame that dam, like I said, for the loss of  
 7 berry trees, the sores on the fish, the rash on the children.]  
 8 This factual book says the sores on the fish and  
 9 rash on the children comes from the water treatment plant at  
 10 Red Shirt. I'm trying to figure out what water treatment  
 11 plant is at Red Shirt. I know there's an one cell lagoon  
 12 there that furnishes about 20 homes.  
**16** 13 [This doesn't say anything about the whole City  
 14 of Hot Springs and that feedlot having state permits  
 15 discharging into that Cheyenne River having any impact on  
 16 those sores. It doesn't say anything about all of the  
 17 fertilizers and pesticides that those irrigators use. Those  
 18 irrigators won't even drink their own water, underground  
 19 water. It's polluted. They polluted it.]  
 20 This factual book says that there are Indians  
 21 working in the area there and that nothing should be done to  
 22 disrupt these tribal members livelihood. As I read the book I  
 23 begin to think, hey, this factual book looks like it's geared  
 24 towards a certain outcome.  
 25 And anybody can get up here and speak, but I

1 know that you don't have time to really review the book like  
 2 you should. There's another one of these comment periods  
 3 orally in Cheyenne River on the 21st?  
 4 MR. PARR: That is correct.  
 5 MR. STEELE: And Lower Brule on the 22nd, but  
 6 you can also put written comments down, and send them by the  
 7 27th of April. We must be careful here because when we deal  
 8 with water that we have prior unrelinquished water rights in,  
 9 careful of the word "quantifying".  
 10 With that in mind, I'm only left with one  
 11 alternative as presented in this book and that is the  
 12 restoration or reestablishment of the natural flows below the  
 13 river or the dam, and the claiming of one hundred percent of  
 14 that water in Angostura on behalf of the Sioux Nation.  
**17** 15 [But I am willing to discuss legislation for more  
 16 efficient irrigation.] Only if the water is restored to the  
 17 river corridor, not managed by a commission; only if the  
 18 United States Congress creates a trust fund to generate an  
 19 annual economic benefit for the Oglala Sioux Tribe equal to or  
 20 greater than the benefit off reservation from Angostura.  
 21 The government came in, put this dam in 40 years  
 22 ago. The water is ours. We lost out on all the benefits.  
 23 That dam may have benefited recreation people, irrigators,  
 24 town of Oelrichs, but it caused us problems in stream flow,  
 25 fish, our recreation in that river, our fishing in that

**15.** See the response to comment No. 12 above.

**16.** The one commercial feedlot in the area is surrounded by sewage lagoons; no sewage reaches the river. The EIS analyzed for contamination from fertilizers and pesticides, finding both to be within water quality standards for the river (pp. 49-51 of the EIS).

Shallow aquifers throughout the region are highly mineralized (pp. 52-53). Thus, people have come to depend on rural water systems like Mni Wiconi for the OST and Fall River for other residents for domestic water supplies.

**17.** Noted.

1 river.

2           Once again, the federal government came in and  
3 took from us to give to somebody else. I don't think it is  
4 very much to ask. There's previous bill that the Standing  
5 Rock got through. Crow Creek got a bill through that benefits  
6 off the main stem dams.

7           In closing, I would like to say that under the  
8 NEPA regulations the tribe has the legal right, and as  
9 president of the tribe, on behalf of the tribe and the people,  
10 I am ready to enforce these legal rights.

11           I would like to also say that we met with the  
12 irrigators several times. They are nice people; it's not  
13 their fault. The recreation people, it's not their fault.  
14 It's not these individuals' faults here that are representing  
15 the Bureau of Reclamation. It's something that has happened  
16 throughout history.

17           In this book here today, what it looks like, it's  
18 taken us in a direction to a decision that's already made,  
19 something that's not going to be good for us, but we're  
20 involving you. There's still time to correct this.

21           Once again I say that I'll be getting you formal  
22 written comments with the Tribal Council approving them before  
23 your comment period ends. Thank you, Ken.

24           MR. PARR: Thank you, President Steele. Again,  
25 this is an open public hearing, and so we're asking for anyone

1 who has comments on the Draft Angostura Environmental Impact  
2 Statement.

3           Mr. Holy Rock would like to speak, Johnson Holy  
4 Rock.

5           MR. HOLY ROCK: Thank you very much to have this  
6 opportunity to address the assembly. My name is Johnson Holy  
7 Rock, and I am the Fifth Member of the Executive Committee of  
8 the Oglala Sioux Tribal Council. And I'm grateful that I  
9 have this opportunity to address an issue which has been a  
10 long-standing area of interest on my part, and that is on  
11 water rights.

12           Both Mr. Steele -- John is the elected president  
13 of the Oglala Sioux Tribe. We come from the same place, from  
14 the Pine Ridge Reservation. And he touched a little bit on  
15 the treaty aspects of water rights. And if you'll note in  
16 the EIS that it only referred to the Oglala Sioux Tribe that  
17 has occupied the reservation located presently in this area.  
18 It doesn't show in the foothills of the Black Hills.

19           But where John has come as president of the  
20 Oglala Sioux Tribe, I would choose to take it a step further  
21 and turn your attention to the map on the overhead. All of  
22 this area clear up there and along down the Missouri and back  
23 to the Platte comprised the territory of the Sioux Nation of  
24 which the Oglala Sioux Tribe is a band.

25           This, where the outline is marked in X's is the

1 area encompassed by the treaty of 1851, which later, by 1868,  
 2 ended in a smaller area, and yet made smaller by the taking of  
 3 the Black Hills, a narrow strip on the border between Wyoming  
 4 and the State of South Dakota. And I suppose that has made  
 5 the tribe occupying this present area some of the poorest  
 6 economic areas. The one where we come from has been  
 7 designated and recognized time and again as the poorest county  
 8 in the United States. Now that's quite a distinction. We  
 9 live in an economically depressed area.

10 When the treaties were made it was implied that  
 11 in the creation of the reservation -- I want to point out a  
 12 little bit different thing here. This is the Pine Ridge  
 13 Indian Reservation right here, this little corner just  
 14 below -- near the headwaters of the White River.

15 But you will note that the watershed coming off  
 16 of the high areas all empty into the Missouri. That's how  
 17 big an area the watershed contributes to. And yet  
 18 agriculturally we are still, after all these years, about  
 19 150 years, still depressed. We've been squeezed into a small  
 20 area, and yet all of the water these streams and these rivers  
 21 going to the foothills of the Little Big Horn contains treaty  
 22 water rights.

23 Indians don't know anything about water rights  
 24 because it's part of creation. At least with Indians they  
 25 didn't claim the water, although the immigrants and settlers,

1 they claimed to various stretches of water that they  
 2 abounded. So all these years we didn't know that we had such  
 3 a thing as water rights. Only recently has it become very  
 4 evident. We haven't yet claimed our water rights.

5 A doctrine used in appropriation of water  
 6 directs attention to the water rights coming to the one who  
 7 was first in time; therefore, having first place right to  
 8 claim whatever water is needed to establish themselves  
 9 economically and be able to live comfortably, which has not  
 10 been our lot.

11 And in this area here, Lower Brule, as was  
 12 pointed out just a moment ago, there will be meetings up  
 13 there with them. All those seven bands own first right to  
 14 all of the water in the treaty area.

15 Incidentally, the whole west half of South  
 16 Dakota was in existence before the state became a state in  
 17 1889. We existed in 1868, and we existed farther south than  
 18 we are now in 1851 clear up down to the north fork of the  
 19 Pelican River in Kansas and the northeastern corner of  
 20 Colorado. That's a tremendous asset that we didn't know we  
 21 had. We had a right to it.

22 Even after the Winters Doctrine became a matter  
 23 of legal evidence, it never dawned on the Indian people to  
 24 claim the water rights, and they have senior water right claim  
 25 to appropriate themselves, depending on the degree of need.

1 Well, when you look at that area, 150 years we have been  
2 denied the use of those waterways in any fashion.

3 I'm not going to be ashamed of it, I've  
4 advocated to my people claim all of it, because your people  
5 have needed it for 150 years. If there's any left over it  
6 can always be negotiated in some fashion. It's way past time  
7 that the Indian people have a share of this in their world.

8 Now looking at this issue that we're involved in  
9 Cheyenne River and its headwaters, that water was ours, it  
10 still is. Therefore, Cheyenne River -- Angostura is in the  
11 same state that the Milk River was in when the Winters  
12 Doctrine came into being.

13 On Milk River a settler bought a piece of land,  
14 fenced it off and built a dam across the Milk River, but down  
15 river was a lot of Indian land. No water was getting there.  
16 There was no opportunity for Indian people to even dream of  
17 getting anything for viable living along that waterway as  
18 long as it's dammed up, and it became an issue in litigation  
19 and that's where the Winters Doctrine came into being.

20 And the findings in that case determined that  
21 when a reservation is created, there was supposed to be an  
22 appropriate amount of water going with it to afford the  
23 occupants water to water crops, their fields, to use the  
24 water, if nothing more than to just drink it.

25 There was no environmental problems then. The

1 land was one hundred percent virgin territory. Today the  
2 virgin territory is so contaminated we have to go into these  
3 environmental impact issues. It shouldn't be that way. We  
4 should have learned to take better care of our land and the  
5 water.

6 So if the Angostura was in existence in the  
7 same way as the one that gave birth to the Winters Doctrine,  
8 and we took issue with it, Angostura would have to be opened  
9 up for denying usable water in that area bordering, barely  
10 bordering a corner of our reservation, a smaller area, and  
11 the needs may be small from a standpoint of use, but still  
12 water should be the normal flow. Because once you cut off  
13 the main flow of water and deny the flowage, downstream  
14 begins to breed contamination, a lot of stagnant waters, and  
15 a different vegetation that take root.

16 We are just now touching the tip of the iceberg.  
17 You may hear more of it as you go to the other areas.  
18 Perhaps Lower Brule and Cheyenne River has a wide stretch of  
19 the Missouri bordering it, but what they are not aware of is  
20 that the Oglalas have as much right along that Missouri River  
21 as they do. Their existence came into being only in 1889.

22 The river comprised the eastern boundary of the  
23 Great Sioux Hunting Ground of 1868, the whole western half of  
24 South Dakota. So every gallon that flows down the Missouri  
25 is Indian water because we were first in time, therefore

1 entitled to first in right of use of that waterway, and yet  
 2 today the Oglala Sioux Tribe was denied participation in  
 3 mitigation, which was totally unfair. Many people didn't  
 4 believe in being fair.

5           It's still in dispute, but the Oglala Sioux  
 6 Tribe, as a band of the Sioux Nation, is involved. Although  
 7 our good Senator Daschle said the Oglalas were no part of the  
 8 Missouri River, but we can prove that Red Cloud occupied the  
 9 area over there by West Stone Agency soon after the treaty  
 10 was made. So we have every right to be here, and yet we are  
 11 denied. Why?

12           Do we choose to be so unfair to a minority of  
 13 disadvantaged people when the rights that they have are  
 14 vested in them and we choose not to treat them equally and  
 15 fairly, and that's the part that bothers me. I spent three  
 16 years packing a rifle on my shoulder, walking the world in a  
 17 war that I didn't start, and yet was required to defend this  
 18 nation. I went. I was drafted. I didn't volunteer. But  
 19 when the call came, I went. And most certainly there are  
 20 many of our young men, many of them have passed on from this  
 21 life, sacrificed, and yet in all of this was still denied a  
 22 place in the sun, very unfair.

23           So with that, I have a statement here I wanted  
 24 to submit. I would like to submit this statement as part of  
 25 your hearing here. Perhaps we can attach this as a matter of

1 record for the position statement. And so with that, I  
 2 apologize for taking so much of your time, but I hope  
 3 visually and otherwise our position is clearer in this, that  
 4 we believe that we have a right to be involved, and also that  
 5 you will see fit to recognize the position that we are in,  
 6 both presently as well as for the last 150 years. With that I  
 7 will cease my statement here. Thank you.

8           MR. PARR: Thank you, Mr. Holy Rock. I  
 9 appreciate those words.

10           MR. WHITE WOMAN: My name is Harvey White Woman,  
 11 and I'm the administrative assistant to Johnson Holy Rock,  
 12 who just spoke before myself. And I guess the statement that  
 13 I want to make is almost elaborating on what was said earlier  
 14 by our President, Mr. John Yellow Bird Steele, and also by  
 15 Johnson Holy Rock.

16           I'm very fortunate to work under an individual  
 17 such as Johnson Holy Rock, who has, as you heard earlier in  
 18 his statement, has knowledge of our treaties. Everything  
 19 that I've learned through the treaties is through the book  
 20 and what he's learned is through oral history, and it makes  
 21 me feel very proud.

22           And again, I would like to acknowledge John for  
 23 making a statement that we are here to establish our water  
 24 rights, to establish what is rightfully ours through treaties  
 25 that my people and the U.S. Government made in the name of

1 peace. And in that treaty it gave us certain rights, and one  
2 of them was water rights.

3           And I want to say -- make a quote and this is  
4 from the treaty of Fort Laramie made on April 29, 1868,  
5 Article 6 -- I'm sorry, Article 3 very considerable number of  
6 such persons shall be disposed to commence cultivating the  
7 soils as farmers. The United States agrees to set apart for  
8 the use of said Indians. In other words, saying that the  
9 treaty of 1868, which is the western part of South Dakota,  
10 that the United States wanted the Indian people to become  
11 farmers.

12           The treaty of 1851 that Johnson alluded to, the  
13 larger one that goes into Nebraska, Wyoming, North and South  
14 Dakota along the Missouri River, Article 7 states in part, and  
15 I quote, President of the United States, for a period not  
16 exceeding five years thereafter, and provisions, merchandise,  
17 domestic animals and agricultural implements -- again, wanting  
18 the Indian people to become farmers.

19           And throughout this whole year and past years, in  
20 1889 which broke off the reservations into seven separate  
21 parts, we were given land, and according to what our treaty  
22 stated was supposed to be irrigable land, that's supposed to  
23 be cultivated. But we were given the land here, the Badlands,  
24 supposedly the land that was totally, totally not as good as  
25 the rest which was illegally taken by the United States.

1           And in this time we have farmers on reservation,  
2 but when you farm, one source that you really need is water.  
3 Water that was taken away 40 years ago, or whenever the dam  
4 was made at Angostura, water that was taken away from this  
5 area that has caused a lot of hardships, and has had adverse  
6 effects on my people, effects that has not only caused social  
7 problems, but also economic problems.

8           And yet last night, as I sat there and listened  
9 to the irrigators, listened to the individuals last night, all  
10 they were worried about was their own benefit. The things  
11 that they were benefiting, that they were reaping above the  
12 dam and just below the dam, the benefits of abundant wildlife,  
13 benefits of deer, benefits of fowl, the abundance of the  
14 growth around and along the dam area and the creek. And not  
15 once was mentioned what about the reservation down here,  
16 nothing. Nothing was indicated on what effect that had on my  
17 people.

18           But I sat there because, as John stated earlier,  
19 we are going to assert our water rights now throughout this  
20 whole area. We're going to assert our water rights not only  
21 on the river, but also the tributaries and groundwater, and  
22 that is our right. That is a right that the federal  
23 government, the BOR, who is a part of that, who is a separate  
24 entity or a component of the federal government that you made  
25 with our people, with my people.

1 And yet there have been laws, there have been  
2 acts that were passed that says this is all gone. That's  
3 inconceivable. That was in history. You can't get this  
4 back. But as long as there are Lakota people on this earth,  
5 that is ours.

6 The Act of 1871 basically said that there was  
7 going to be no more treaties made with Indian tribes, but  
8 there was a little known language, little language that was  
9 inserted into the Indian Appropriations Bill of 1871, and that  
10 bill was probably just as thick. But a little piece of  
11 language that was inserted in there, and I quote, for  
12 insurance and transportation of goods for the Yanktons,  
13 \$1,500 provided that hereafter no Indian nation or tribe  
14 within the territory of the United States shall be  
15 acknowledged or recognized as an independent nation, tribe or  
16 power with whom the United States may contract by treaty.

17 Provides further that nothing herein contained  
18 shall be construed to invalidate or impair the obligation of  
19 any treaty heretofore, lawfully made and ratified with any  
20 such nation or tribe. Heretofore, that means our 1851 and our  
21 1868 is still intact. That is why we still stand on that, and  
22 we will continue to stand on that.

23 So all the waterways we claim, we claim not for  
24 ourselves. John doesn't claim the water for himself. Johnson  
25 does not claim the water for himself. We claim it for our

1 children. We claim it for our generations to come. And that  
2 is why it is so important that people out there understand  
3 this and understand where we're coming from.

4 Sure, they have the benefits right now. They  
5 are reaping the benefits of the dam. They are reaping in  
18 recreational uses and irrigation. [But what are my people  
7 receiving? Sores, fishes with lesions, no water for  
8 irrigation, no natural flow.] That is what my people are  
9 receiving; is that fair? I think not.

10 When we have people such as Johnson, and John  
11 Steele is a Vietnam Veteran, went out and fought for this  
12 country, and yet our treaty rights are being violated. Our  
13 people are being violated, and it's continuing even today.  
14 The Mitigation Act, the transfer of land to the State of  
15 South Dakota from the Army Corps of Engineers, that's a  
16 violation of our treaties and our water rights.

19 17 So again, I want to say I concur with John. [I  
18 concur with Johnson Holy Rock, that number one, and one of  
19 the alternatives is reestablishment of the natural flow of  
20 the Cheyenne River, and also that we are asserting our water  
21 rights and we claim the water which is within our treaty area  
22 and we claim that.] And we're willing to do anything possible  
23 by any means to assert that, and we will.

24 So last night, and again, like I said, John  
25 stated earlier, it's not the irrigators fault. It's not the

18. See the responses to comments No. 11 and No. 12 above.

19. Noted.

1 people that take their boat onto the dam. It's not their  
 2 fault. We were all put in a situation to where we were  
 3 learned, we were taught to look at each other and mistrust  
 4 each other by the federal government.

20 5 But in all fairness, that is our water. [And who  
 6 gave the BOR the right to charge to the irrigators our water?]  
 7 That is a question that I have. Who gave them that right,  
 8 because that is something that again we are not seeing any of  
 9 the funds that those irrigators are paying being put onto the  
 10 reservation. It's not being applied there.

11 So with that I thank you. I thank the BOR for  
 12 being here, for doing what they are supposed to be doing in  
 13 accordance with the NEPA process. But we will be following  
 14 this very closely during my -- we're not going to say that  
 15 just during the tenure or two years that we're here, but it's  
 16 going to be ongoing. And I sure am not going to let this go  
 17 away, because this is always going to be something that we  
 18 have established, and that is my right. That was my ancestors  
 19 right, and that's my children's and my generations to come  
 20 right to say that this is ours and we are establishing our  
 21 water rights right now. Thank you.

22 MR. PARR: Thank you Harvey. I appreciate that.

23 MR. WHITE THUNDER: (Speaking Lakota) My name  
 24 is Guy White Thunder, Chairman of the Lakota Landowners  
 25 Association, and I'm also Water Director, International

20. Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388 and acts amendatory thereof and supplementary thereto) give Reclamation the authority to develop public water resources. The Flood Control Act of 1944 specifically authorized the Angostura Unit, including reimbursement of construction and operations and maintenance costs.

1 Treaty Council and a member of the Environmental Native  
 2 Resource Coalition, and I work with an indigenous environment  
 3 network. I'm one of the elders. We have elders from all  
 4 over different states, and I'm from this -- from South  
 5 Dakota.

6 And we always talked about the treaties, too,  
 7 you know. I am a delegate from the Alaska natives -- I've  
 8 been working and helped the people. But one thing that my  
 9 grandfather told us a long time ago, he said this land is not  
 10 given to us by the white people or the foreigners. God put us  
 11 here, give us this island and the color and culture and our  
 12 language, and they give the black people a country and a color  
 13 and a culture, and also Japan on the east side.

14 And my grandpa always told me that, you know,  
 15 never go to the Army. He was a warrior. He was not a peace  
 16 chief. He was a warrior, and he always told us, always told  
 17 me not to join the Army because they are our enemies. And  
 18 we talked about this land, who owns the land. God put us here  
 19 and we can't say that we don't own nothing. We own the  
 20 water. He didn't give it to us, we own it. God give us this  
 21 water.

22 And you know we, the Lakota, respect what God  
 23 created. We never go and abuse what God created. We don't  
 24 go around digging the holes to get rich, and we have  
 25 grandmother or grandmother's purse up on that Black Hills,



1 everything in it. That's where we hunt. That's where we get  
2 our berries and stuff.

3 But now, you know, I don't know, I guess we are  
4 under this wardship. We are under a ward of government.  
5 We're just like a slave, like this water here. This water is  
6 much alive, and I know that. When you drink that water it  
7 helps you build your blood. It goes into your stream.

8 But now, you know, the water is kind of  
9 polluted. A lot of sick people nowadays. They have sugar,  
10 they have heart trouble, cancer, because they are drinking bad  
11 water, polluted water. And the reason why I say the water is  
12 alive is because if you go to a creek and you sit there and  
13 you can hear the water flow, it looks like they are talking.  
14 And we expect all the vegetation that's on the ground, that  
15 God put there.

16 Harvey said that this -- just this part is ours,  
17 but no, beyond to the Mississippi River, all the public land  
18 that we inherit, too. So not only in the State of South  
19 Dakota, but in Wyoming, Nebraska, Colorado, all the public  
20 land, we have the right to live there if we wanted to. So we  
21 always owned this land. God give us this land. So I don't  
22 know why you guys are saying that they give us this land --  
23 give us our rights. We always have that right, but no one's  
24 listening to us.

25 You know, when I was in -- we talked a lot about

1 the treaties. In '92 I went to Salzburg Austria for the  
2 hearing and people from all over the world have problem with  
3 the government. You know, we have a treaty, too. We made a  
4 treaty with the United States Government, not the State of  
5 South Dakota, or the BIA or the Tribal Council or tribal  
6 program, whatever you call it. The Lakota always have that  
7 right.

8 But one thing they always tell us that, you know,  
9 when they take up land and people get rich on it and, you  
10 know, our grandfathers never said -- they said don't get rich  
11 on what you have now. Respect God's creation. Do not try to  
12 sell those lands. They said if you lose that land, you're not  
13 going to get one again.

14 Just like that one fellow said from -- I think  
15 he's from -- well, anyway, he's from either Japan or China.  
16 Anyway, he said once, what are we going to do if we lose this,  
17 if we pollute this land. If we pollute this land and, you  
18 know, we're going to lose this land. Is God going to give us  
19 an another one? Because we never take care of this one, so  
20 God wouldn't allow us to have another planet. I think he's  
21 right. We abuse this planet.

22 And so I think that's all I have to say, but I  
23 want to say that this dam, that water is just like a prisoner,  
24 you know, helping -- it's captive over there in the dam and  
25 use it to make money, and it's one of God's creations, the

1 water. And this one guy says these people, they should have  
2 been around many thousand years ago, there was plenty of water  
3 here. This place was all flooded. Where are they at now?

4 So if you want plenty of water, you can get  
5 plenty of water, but you have to accept what little that we  
6 get. We have to honor God's creation, and I don't have much  
7 education. I just went as far as sixth grade when the war  
8 broke out. And my mother and my father, you know, they  
9 divorced. I was only thirteen years old, and I had to go out  
10 and work. I worked all my life, and I got kicked out of  
11 school because I was sleeping, and every time I go to school,  
12 you know, I would help my mother haul wood and all that stuff,  
13 and I was tired in the daytime and I slept in the classroom  
14 and so they let me go.

15 So I went back to my grandfather. I told him I  
16 got kicked out of school for sleeping too much. He said don't  
17 worry, as long as you can sign your name, he said, that's  
18 okay. And so I only have sixth grade education. I don't have  
19 no college degree, but I got a teaching from my grandfathers  
20 and my elders.

21 My great grandfather had five wives, so I had a  
22 lot of grandfathers. The reason why he had five wives  
23 because you have that many wives you can take care of the  
24 orphans. One of them take care of the children, the other  
25 one goes picks berries and the other one goes haul wood. So

1 I have a lot of grandfathers, and I have a lot of relatives,  
2 but I don't know most of them because they all have different  
3 names. Okay, thank you for listening to me.

4 MR. PARR: You're welcome. We're glad to have  
5 you.

6 MR. TALL: I want to thank you. My name is  
7 George Tall. I'm a Pocalla (sp); that's a warrior society.  
8 I'm also a Na-sha (sp), a head man for my Tiospa. I'm also a  
9 student of Oglala Lakota College. I'm working on a degree in  
10 environmental science, trying to get a BS in conservation  
11 biology. What I'm really interested in is the watershed  
12 area.

13 To my understanding the outlet would be here,  
14 right, the watershed area? The reason why I want to bring  
15 that up is because of environment and how we as humans use  
**21** 16 it. [Okay, so you got approximately, geez, I don't know how  
17 many square miles that is, but it's at least a five state  
18 area of water that drains down through the Cheyenne River.]

19 You've got to understand that we as human  
20 people, we as humans, we have a lifestyle where we need  
21 recreation. There's a lot of recreation in the Angostura.  
22 I'm sure there's a lot of people enjoying themselves there.  
23 But by retaining all this moisture back into this area,  
24 there's other projects into this -- that area, that watershed  
25 area, that's going to use a lot of water, like the coal

**21.** The Cheyenne River originates in Wyoming and flows through South Dakota before joining the Missouri River (see pp. 5-7 of the EIS). The Cheyenne drains 9,100 square miles in Wyoming, and more than 14,800 square miles in South Dakota.

1 slurry thing.

2 But is it ethical for humans to hold back all  
3 that moisture because this area of the lands need that  
4 moisture. Look how many thousands of wildlife, like ducks,  
5 use that Cheyenne River wetland area to breed. What about  
6 the migratory routes?

7 Can I switch it back to the other one? Okay, you  
8 have these corridors coming across Lakota Country. They are  
9 corridors of migration, like the Cheyenne River area could be  
10 the corridor for raptors, among them the peregrine falcon.  
11 They depend -- as raptors they depend on all that food, all  
12 the game that they can find along the Cheyenne River. And  
13 what if we don't have enough game there?

**22** 14 [What if through human alteration that the ducks  
15 can't be nesting there anymore because of all the nitrates  
16 that might be coming off of the feedlots right in Hot  
17 Springs. Is there plans to contain all that runoff? Does  
18 all that nitrates -- how does it come off? Where does it  
19 run off into? It's really interesting how you can contain  
20 these nitrates that go into Cheyenne River and what the  
21 impacts the nitrates have.]

**23** 22 [For one thing it really affects your pH levels,  
23 acidity of the river itself, which will affect the  
24 temperature. Stagnant water rises in temperature, loses  
25 oxygen, nothing can grow in it. You have nothing but algae.]

1 Fish die. Only the heartier ones like carp, those type of  
2 bottom fish, trash fish, sucker fish, stuff like that can  
3 survive in those waters, and that's what is in those waters  
4 now with lesions.

5 We as humans have to learn that we are  
6 responsible for plants and animals. Who is going to take  
7 care of them? Why are we always concerned about humans  
8 ourselves. The Lakota way is we've made plants and animals  
9 our friends. Our ancestors have learned to live long with  
10 those things. Our livelihood comes from there, medicines from  
11 our surroundings that we use to heal because of these  
12 contaminations along these rivers.

**24** 13 [How many medicinal herbs have we lost? Has  
14 anything been done to document loss of flora? Fauna? Will  
15 the EIS cover those areas? And herbicides, pesticides, all  
16 the chemicals that are used inside of a feedlot, what happens  
17 to them? The canals that come right below the dam, how many  
18 contaminants do you think those canals carry on down, and on  
19 into the river and on out.]

**25** 20 [For some reason since Indian reservations do not  
21 have environmental laws into place it becomes real easy for  
22 outside corporations to come on in, contaminate our waters  
23 because we don't have no laws regulating them. Because we  
24 don't have no laws, EPA violated our authority by making a  
25 decision on Bennett County. How could EPA do that?] How

**22.** See the response to comment No. 16 above.

**23.** The EIS analyzed for DO, TDS, trace elements, nitrogen, pesticides, and uranium in the water (pp. 40-52 and 129-135 of the EIS, and Appendix Q) and found no effects as the result of the Angostura Unit.

**24.** The OST identified three culturally important plants during scoping meetings held on the Reservation for the EIS in 1997 (p. 15 and 167-168 of the EIS). Analysis in the EIS of these three plants—common chokecherry, American plum, and silver buffaloberry—concluded that they were predominately upland plants and thus beyond the effects of the Angostura Unit (pp. 98-99 and 157-158).

See the response to comment No. 16.

**25.** The Bennett County matter is beyond the scope of this EIS.

1 could EPA supersede authority over a treaty area?

2 I mean it's coming to a point where we need more  
3 of you people to come down to these reservations. It's  
4 really hard for us to go look for you; to come down and  
5 really educate yourselves on how Indian people live. What do  
6 you think? And where are we going to go from here?

7 We also are like those plants and animals. We  
8 have a right to equal access to these lands. We have a right  
9 to clean water. We have a right to fish and swim. And like  
10 John Steele said earlier, we also want to be a part, a part  
11 of regenerating those areas. We want those wildlife to be  
12 coming back. We don't want this. Every year we have several  
13 thousand species put on the endangered species list, or  
14 losing species every day because of adverse environmental  
15 development.

16 As it is, there's new types, new and different  
17 ways that they are going to bring out this coal. They are  
18 going to shoot water down into that slurry and bring it up.  
19 Look how much water is going to be taken out of that area.  
20 It's from our watershed. It's the same areas.

21 Okay. I want to thank everybody here. I want  
22 to thank all the others here today, and we need to come  
23 together more often. You need to hear us because we are  
24 holding title to these lands. We also are the caretakers,  
25 and we are coming up with real good science programs. We're

1 educating our youth. We're getting ready for the future,  
2 too. So far we don't have no political impact as of yet, but  
3 we are going to do everything in our power and everything we  
4 can to regenerate those rivers, to bring back wildlife and  
5 fauna. We want clean water, too. Thank you.

6 MR. PARR: Thank you.

7 MR. SULLIVAN: Good afternoon everybody. I  
8 apologize for being late. I want to thank everybody for  
9 coming here today, and there's been some interesting words,  
10 but I feel like -- my name is Bobby Sullivan and -- I was  
11 getting to that.

12 I'm chairperson of Red Shirt Community, and I  
13 kind of feel like it's really important. This river flows  
14 right by Red Shirt Community. For those of you who are from  
15 around here and familiar with our little community, many  
16 years ago it was quite a well-developed little area. We had  
17 a cannery down there. There was a lot of potatoes and  
18 different things that was growing down there.

19 Now the water that flows through the village,  
20 many of our children that go down there in the summertime to  
21 swim and enjoy themselves along the river, can't. Many times  
22 they have gone to the river to swim, they have come home and  
23 later on that evening their parents are taking them in to the  
24 hospital because the water has caused their skin to dry up,  
25 itch, break out.

1           They have tried to go fishing down there, to  
2 maybe just enjoy fishing, as there isn't a whole heck of a  
26 3 lot to do in Red Shirt. [And when you pull a fish out of the  
4 water in that area, you have a fish that has little sores all  
5 over it.] There is no fishing down there. You can't fish  
6 either. It's not even a joy to fish in that area because  
7 when you pull out something that looks like some of those  
8 fish do, you would really rather not go fishing at all.

9           I haven't been following this too close, but I  
10 feel like it's really important, because of the fact that Red  
11 Shirt community is very much affected by what's happened with  
12 the damming of the Cheyenne River. And so I would just like  
13 you all to be aware of that. I don't know how many of you  
14 have ever been down to Red Shirt Village, and maybe you've  
15 been down to that area. There's times during the summertime  
16 where you can walk across the river, where the water is barely  
17 flowing, and all of a sudden they will release a whole bunch  
18 of water and it will come flying down in there.

27 19           [And at this time I would kind of like to reserve  
20 the right to make formal comments later, after we meet with  
21 our district and our community.] And again, I would encourage  
22 you to come down to Red Shirt Table, visit with the people,  
23 get some of the history from down there. Everybody is right,  
24 it is a valuable resource, this water, and it is coming to an  
25 end. I feel like we're really losing a lot of stuff. Thank

26. See the response to comment No. 12 above.

27. Noted.

1 you. I just wanted to make that comment.  
2           MR. PARR: Thank you. Bobby, do you have a copy  
3 of the EIS? If you have that meeting, we have an office in  
4 Rapid City that would be more than happy to come down and put  
5 one of these on in Red Shirt. If you would set it up, we  
6 would like to come. That's probably where the meeting should  
7 be at. Thank you, Bobby. Anyone else?

8           MR. CHARLES YELLOW BIRD: My name is Charles  
28 9 Yellow Bird, and I just want to tell you that [I support the  
10 establishment of natural flows for the river; that's all I got  
11 to say.]

12           MR. CLINTON YELLOW BIRD: My name is Clinton  
29 13 Yellow Bird, and [as a member of the Oglala Nation we stand on  
14 reestablishment of the natural flows alternative.] Thank you.

15           MR. APPLE: Good afternoon. My name is Darwin  
16 Apple. I represent the Lakota Landowners Association. First  
30 17 of all, [I also would like to express my support for the  
18 alternative to reestablishment of the natural flow down river  
19 from the dam.]

20           Secondly, I would like to address a concern that  
21 the landowners have concerning the entire Angostura project.

31 22 [The scoping and consultation that is required by the NEPA  
23 process, sometimes from the tribal point of view, is not  
24 adequate because it does not address legislative issues.] The  
25 entire legislative process got developed, the NEPA process

28. Noted.

29. Noted.

30. Noted.

31. The relationship of treaties to the Angostura Unit are discussed in pp. 9-11 of the EIS. Otherwise, treaty issues are beyond the scope of this EIS.

1 itself, has not allowed that flexibility through that  
2 legislative process to deal with treaties and acts, statutes  
3 that affect Indian Country.

4 And when you have hearings at this level, this  
5 is what you'll hear mostly, when maybe specifically you're  
6 looking for input on cubic feet per second or chemicals that  
7 are used in the farming, the legalized growing operations  
8 that the irrigators support flowing into what's left of the  
9 river or the feed pen operations, the runoff from those  
10 operations flowing into what's left of the river.

11 When we talk about our ability to sustain life  
12 and to become a proactive part of society as we know it  
13 today, we require that the legislative process that was put  
14 in place by the Americans to understand that we, the Oglalas,  
15 as a nation of people, and as a part of a nation of people,  
16 also understand the rights that were given to us through that  
32 17 very legislative process. [What we have trouble understanding  
18 is why the interpretation of those laws is twisted, twisted  
19 and deformed to fit the requirements of this type of project,  
20 these water management projects, land acquisition projects.]

21 The Winters Doctrine is based on the  
33 22 Constitution of the United States. [The very integrity of  
23 your nation calls for you to recognize these documents that  
24 you have formulated, and that the interpretation becomes a  
25 mandate in favor of the tribes.] Quantification of water,

32. No land acquisition has been proposed in the EIS.

33. See the response to comment No. 14.

1 those water rights, has not been established through any  
2 processes, and if it has, it's in violation of those very  
3 documents that are based on your Constitution, the integrity  
4 of your nation.

5 Sometimes we get a little bit emotional when we  
6 talk about these things, and we forget that in our research we  
7 need to address the federal agencies through the forums that  
8 they understand, the numbers, the economics of the situation.  
9 The 1944 Pick-Sloan Act, flood control as the primary  
10 objective of that, the act itself. The implications of that  
11 flood control have filtered down into the feeder streams of  
12 the Missouri River, including the Cheyenne.

34 13 [If we do not have that flow of water to  
14 regenerate life, if it's quantified out of existence for the  
15 tribes, then you must understand that the goals of your  
16 society, as fine sounding as they are, are nowhere near the  
17 truth. We need to have the water flowing as it did.] The  
18 water is life. The landowners don't support the damming up  
19 of that water and diversion of that stream.

35 20 [And with that we do reserve the right to submit  
21 written comment.] So thank you for your time.

22 MS. CLAUSEN JENSEN: My name is Kim Clausen  
23 Jensen, and I'm not testifying on behalf of the Oglala Sioux  
24 Tribe, but as an enrolled member of the Oglala Sioux Tribe.  
25 I've been very I don't know if I would say fortunate to be

34. See the response to comment No. 14.

35. Noted.

1 involved in this process over the last four years, but I've  
2 sat and watched and I have paid attention, and I've looked  
3 and I've been very saddened by what I've seen.

4 I remember one time we went to the dam and we  
5 walked up on the dam and Joe Clifford was with us, who is no  
6 longer with us now, get up on the dam, on top of the dam and  
7 looked down over the river and he had tears running down his  
8 eyes. There was no water. A lot of water up here, lots of  
9 boats up here, nothing coming down. This was in August of  
10 that year, and he cried. A tear came down his eye, and I  
11 remember that. That stuck in my head until now. It really  
12 affected me, the deep feeling that he had.

13 The tribe wasn't consulted when this dam was put  
14 in. I kind of laugh because I have seen pictures of when they  
15 took photographs of when the dam was being built, and I, as a  
16 Lakota woman, know that we were not allowed to make any  
17 decisions during that time. And what we seen was pictures of  
18 women there, Lakota women. So if they say they negotiated  
19 with the Lakota Tribe, that was probably not true, because  
20 they would have not negotiated with the women of this tribe.

21 They built the dam and the irrigators were to  
22 repay for the construction of that dam yearly, an annual.  
23 They pay in the month of May. They make a lump sum payment.

36 24 [They pay regardless of how much water they use, or how little  
25 water they use. So it's not really a water conservation] that

36. The District's canals operate at about 76% efficiency. The District is one of the most efficient in Reclamation's Great Plains Region.

1 they push, because it's behooves them to use more water  
2 because they are paying for it anyway. There's no  
3 conservation methods at all in the use of that water, and  
4 that's bothered me greatly.

37 5 [Also what bothered me greatly is what gave the  
6 federal government the right to sell Lakota water, to receive  
7 a payment to the United States treasury yearly for water, and  
8 we sit down here, not being able to support ourselves, being  
9 the quote-unquote poorest county in the whole United States.]  
10 That's not a fact that we're proud of. We have people who  
11 can't afford propane in the cold months, who can't feed their  
12 families.

13 I looked at the recreators, all concerned on how  
14 they can get their boats into the water. That is of no  
15 relevance to me. That's not our kind of recreation. Our  
16 recreation, I remember as a child growing up picking berries  
17 with my grandmother. I kind of laugh because she could pick  
18 so fast, and we ate more than we would pick and get in the  
19 bucket. We would pick the berries and that was our form the  
20 recreation. You pack a picnic into the lakes and draws; pick  
21 berries and picnic. They say, We can't put our boat in the  
22 river up there along with our cabin along the river; we are  
23 not afforded that opportunity.

24 I read in the book and added up 7.1 million  
25 dollars is economic benefit for that area. And I agree with

37. See the response to comment No. 20.

1 what John said, not one single dollar of that comes into the  
**38** 2 Pine Ridge Reservation. [When they went out and assessed the  
 3 area to see what total irrigable acres were, when it came to  
 4 the boundary of the Pine Ridge, they stopped. They stopped  
 5 right there. They didn't go out and assess what could be  
 6 irrigable on the Pine Ridge Reservation. We have allottees and  
 7 landowners up there that were never afforded the opportunity  
 8 to move back on their land to irrigate it, and make a living  
 9 off that land.]

10 They weren't -- our tribal members weren't  
 11 afforded the opportunity to select where their land would be,  
 12 so when they get a piece of property up there that didn't  
 13 have any water on it, it gets leased out, used by other  
 14 people because they can't -- they had no way to survive off  
 15 that land. And I think they should be afforded that  
 16 opportunity to be able to survive off that land.

**39** 17 [I would like to know what the yearly payment  
 18 that the irrigators pay into the United States treasury on a  
 19 yearly basis, what that is.] Is that a couple hundred dollars,  
 20 a couple thousand, a couple hundred thousand? What do they  
 21 pay every year for to repayment. I know they haven't repaid  
 22 that and government has subsidized those irrigators at times  
 23 when they couldn't make that payment. They subsidized it off  
 24 the Missouri River. That's wrong.

25 We've heard outside people saying, well, Indians

1 get everything. They get per capitals. They get all this  
 2 stuff. That is so untrue. That is not true. I think those  
 3 irrigators have probably been more highly subsidized than the  
 4 whole Oglala Sioux Tribe put together, or all the nations, 40  
 5 million dollar figure that sticks in my head. And so they  
 6 sell that water back.

**40** 7 [They should have come up and did assessments.  
 8 When we asked for water they say, What's your beneficial use  
 9 of that water. Well, we don't know what that beneficial use  
 10 is because we haven't been afforded the same opportunity as  
 11 non Indian people off the reservation, on soil surveys, what's  
 12 that soil type like, all those things.]

13 A lady came in yesterday at one of the hearings  
 14 and said, I bought that land from soil conservation. I bought  
 15 it with irrigation on it so, you know, we can't do any dry  
 16 land cropping because our property taxes are too high. We  
 17 have to irrigate. So I think of those things, and look at our  
 18 reservation and our struggles over the last years to create  
 19 economic development.

20 What I see the reservation having is our land  
 21 and our people, we don't have big factories anywhere. We  
 22 don't have McDonalds and Wal-Mart. We don't have those  
 23 things. What we have is our land and our people, and that's  
 24 how we have to survive is off that land, off that water.  
 25 We're not afforded that opportunity.

**38.** A reconnaissance-level study of irrigability on the Reservation was done in 1994, and an alternative based on the report was originally proposed for the EIS. It was eliminated at request of the OST (p. 26 in the EIS).

**39.** The District paid off construction costs of the distribution system in 1998 and is now paying construction costs of the dam. In addition, the District pays yearly operation and maintenance costs ranging from \$14.03-16.50 per acre, depending on the land class.

**40.** See the response to comment No. 38.



**41** 1 [I'm in full support of the reestablishment of  
2 the natural stream flows.] But then I think, I go out and  
3 meet with the irrigators and they are wonderful people. They  
4 are not mean people. They are not bad people. They are out  
5 there trying to make a living.

6 And I remember one guy got up and said, geez, we  
7 didn't even know about the Winters Doctrine. Nobody ever  
**42** 8 told us about that. [I think that is the federal government's  
9 responsibility to have told them that; to have said, hey,  
10 listen, down the line these Indian tribes might come and ask  
11 for this water back. They never told them that.] So here  
12 they are eking a living out on the land and they are scared.  
13 They are very scared we might say reestablish natural flows,  
14 because it's going to ruin their livelihood up there, 7.1  
15 million dollars.

16 And the night before I heard irrigators say, I  
17 can't sell my cabin on the lake because I only have an one  
18 year lease on it. You know, we need to get this process  
19 moving. Do those break my heart? They know nothing about  
20 this. As long as they have lived in South Dakota, they know  
21 nothing about us. I think they would like to forget that we  
22 are even down there. They would like to turn their back and  
23 say, gee, I don't want to know what's going on down there. I  
24 really don't want to know that.

25 I don't want to go down there and see how bad

1 it is, how poor it is down there, but I really want to make  
2 sure I can sell my cabin on the lake. That is of no  
3 relevance to me at all. None. I could care less if they get  
4 their boats in the water up there. It wouldn't hurt my  
5 feelings at all, because I know not one Lakota that has a  
6 boat that you could put in the water.

7 If those boat ramps went down and needed to  
8 release more water, would it affect us as a nation, probably  
9 not at all. You know occasionally we might go up and use it,  
10 but we pay a fee to get in there. That's not free to us.

**43** 11 [They lease all that land to the State of South Dakota for  
12 recreation, recreational purposes, and they make a big  
13 benefit off of it.]

14 This has been a very, very hard process to go  
**44** 15 through because it's been very, very limited. [The whole  
16 purpose is to recontract the Irrigation District, recontract,  
17 the whole purpose of the NEPA. So when we talk treaties, I  
18 can see it now, when they go back and say treaties are not  
19 part of NEPA. We can't address those in NEPA. It's not part  
20 of it. We can't address what happened to the Native American  
21 people in the past. That's in the past. We can't deal with  
22 that right now.]

23 I've heard these statements over and over again.  
24 I've seen them take a look at the economics of the reservation  
25 and use a model to model us. We fought real hard and made

**41.** Noted.

**42.** The EIS stated that the Tribes probably had reserved water rights under the Winters Doctrine (pp. 97-98). This will be changed to read: "The OST and CRST have claimed water of the Cheyenne River under the Winters Doctrine. The LBST have also claimed water of the Cheyenne under the Winters Doctrine and the 1868 Treaty." See also the response to comment No. 14.

**43.** The public receives a benefit from recreation, fish, and wildlife at Angostura Reservoir as intended by the Pick-Sloan Missouri Basin Program. The South Dakota Department of Game, Fish and Parks manages Angostura State Recreation Area at the reservoir through an agreement with Reclamation. Operation and maintenance costs of the recreation area are greater than the income derived from it.

**44.** See the response to comment No. 31.

1 them change that because we are not the average American  
 2 citizen that has an income of 30,000 a year. We're not.  
 3 We're not, and that's a fact.

45 4 [I have seen in there where it says 58 percent  
 5 unemployment. They use those figures because once people  
 6 quit looking for a job, then they are not employable any  
 7 more. How many years do you continue to look for a job when  
 8 there's no jobs here. None. So all those fall out. How  
 9 many is that, ten, fifteen, twenty thousand people? That's  
 10 what I see, that's our unemployment rate, and those need to  
 11 be looked at.]

12 I also would like to state very clearly that the  
 13 Bureau of Reclamation does not have a trust responsibility to  
 14 the irrigators. They do not. They have a trust  
 15 responsibility to the Oglala Sioux Tribe to look after our  
 16 Indian trust assets, and I think they are failing miserably in  
 46 17 that area, miserably. [There one purpose in this, and they are  
 18 saying I have not selected a preferred alternative. Their  
 19 preferred alternative is the no action alternative. They  
 20 can't out and out say that, but that's the ultimate goal  
 21 here.] Let's sign that contract, give it back to the  
 47 22 irrigators. Let's do a 25-year contract with them. [And we  
 23 are supposed to blindly sign that document, say that's fine,  
 24 go ahead.] What's wrong with this picture here. We have  
 25 people starving here. We have no economic development. We

45. The 29.4% Census estimate for Reservation unemployment and the 54% estimate from *Labor Market Information on the Indian Labor Force* are both presented in the EIS (pp. 95-96). It should be noted that official unemployment estimates are based on a labor force of those within a range of working ages, rather than the entire population. Unemployment will be updated from both sources in the final EIS.

46. At the request of the OST, the draft EIS had no Preferred Alternative.

47. Signatories to any contract would be the United States (through Reclamation) and the District.

1 are hearing the river is contaminated. I was out there. I  
 2 was on that river. I met with people. I interviewed people  
 48 3 in Red Shirt. [Because of the oral history that's a part of  
 4 the Lakota people they didn't know how to deal with oral  
 5 history.] When I had Mr. Pills The Pipe Senior say there were  
 6 times when the water was clear, we used to fish in it, we got  
 7 big fish out of it. We used to eat those fish. Many, many  
 8 people testified. We took all these interviews and we  
 9 submitted them, but they didn't know how to use them because  
 10 it's oral. It's not their way of recording history, because  
 11 it was oral. We met with those community members over and  
 12 over again, heard their concerns. They voiced their  
 13 concerns. I know one thing to be very true, that water in the  
 14 west is like gold. Without water, there's nothing. And if we  
 15 continue to allow the federal government and outside entities  
 16 to take what's rightfully the Oglala people's, then we are  
 17 never going to get anywhere, not in this generation or the  
 18 many generations to come, or the ten or however many. We're  
 19 going to leave for our children what we've got here, and maybe  
 20 even less. So it's up to us to get up and say no more.  
 21 You're not taking our resources no more. We will fight you  
 22 with every breath we have got to keep our resources here. If  
 23 that means taking down that dam, then I guess -- if it takes  
 24 an act of Congress, we're going to congress. We've learned to  
 25 play that game, and that's what we'll do.

48. Reclamation contracted with the OST to provide oral histories for the EIS. The report is included in Appendix Z.

1 I also would like to say I've looked at the  
2 reestablishment, restoration, betterment. I think there  
3 could be some work done on that. But first and foremost,  
4 Oglalas get what they need, and if there's anything left, we  
5 might consider selling that to the irrigators. I don't think  
6 that the government has the right to sell it, but the Oglalas  
7 have the right to sell that water.

49 8 [And quantification, if you push us in a corner  
9 on quantification, we have to quantify this. The State of  
10 South Dakota, the Federal Government knows this and you know  
11 what the outcome of it would be, very clearly what the  
12 outcome would be. Again, we would take what's rightfully  
13 ours.]

14 I told the irrigators yesterday, you have to  
15 think of the Pine Ridge kind of like you think of your little  
16 units out on the Irrigation District. If this was considered  
17 a unit, if the government came and sliced off that and sliced  
18 off that, sliced off that and said the check's in the mail,  
19 we're going to pay you back for that, I'll mail you a check.  
20 You go out and check every day, check that box but there's  
21 never no check in the mail; never paid us for anything.  
22 They're not giving us anything. We are wanting payment back  
23 for what they already took.

24 And I feel bad for the irrigators, I do. They  
25 are wonderful people. I'm not saying they are not. And I

1 would not in any way, shape or form destroy their lives, but  
2 it's the federal government's responsibility to correct what  
3 they did wrong in the first place, and that's by selling  
4 water they didn't own, that they had already given to us  
5 under treaties. Thank you. Next person, please.

6 MS. FEATHERMAN SAM: Thanks. I don't know if I  
7 was listening to everybody, or what. Good afternoon. My  
8 name is Emma Featherman Sam. I am an Oglala from one of the  
9 bands of the Great Sioux Nation. I currently reside here in  
10 the Pashudacaca District (sp). I'm also director of the  
11 Badlands Bombing Range project for the Oglala Sioux Tribe,  
12 and it's in that behalf that I'll make a statement today. I  
13 also reserve the right to make formal comments before the  
14 official end date.

50 15 [Today I want to talk about the misnomer of  
16 environmental justice. I think that to begin with it's  
17 injustice in every respect that you can think about, of  
18 what's being done here with the Angostura Reservoir on the  
19 Cheyenne River.] We have, as a people, been dealt many  
20 injustices that I'm sure every single one of you have heard  
21 of in all the years that you've dealt with Indian people.

22 The Pine Ridge Indian Reservation, the current  
23 reservation was put here in 1889, and since that time we've  
24 had the two main rivers that come on to our reservation  
25 dammed up. We've had an old bombing range, or a training

49. See the response to comment No. 14 above.

50. Environmental justice was evaluated by three criteria developed by the Council of Environmental Quality: Whether or not impacts to the OST would be significant or above generally accepted norms; whether or not contract renewal and water management would pose a significant environmental hazard to the OST; and whether or not impacts—when combined with impacts of other projects—would pose a cumulative hazard to the OST (pp. 100-101 and p. 158 of the EIS). Based on these criteria, Reclamation concluded there were no environmental justice impacts to the OST.

1 range established on our reservation because the people in  
2 the State of South Dakota refused to accept the training  
3 range on their lands.

**51** 4 [ We've had areas of our land that are so  
5 contaminated with naturally occurring sources that our  
6 groundwater is contaminated. We've had to bring drinking  
7 water from the Missouri River into the reservation. To me  
8 those are the kinds of injustices that we as Indian people on  
9 the Pine Ridge Indian Reservation have to deal with every  
10 single day.] We go out there and we can't drink our water.  
11 Some people here on the reservation can't drink water out of  
12 their tap anymore because it's contaminated, so they have  
13 brought the rural water in, and that's helping to take care of  
14 that.

**52** 15 [ We have people that can't go out to our rivers  
16 and fish or swim, and we have federal agencies that are not  
17 providing the services through their trust responsibility to  
18 the tribe to take care of these situations. I think that the  
19 Environmental Justice Section in the Draft EIS is very  
20 inadequate. It does not deal with a lot of the concerns that  
21 we brought about through this work group that the tribe has  
22 set up to deal with the Bureau of Reclamation on the EIS.] And  
23 I have several other comments, but I'll put those in the  
24 formal statement. Thank you.

25 MR. CAPOSELLA: Ken, do you have an overhead of

**51.** The Mni Wiconi Project—which brings Missouri River water to the Reservation—is a Federal Project, planned and constructed with the close cooperation of Reclamation. One of its purposes is to provide clean drinking water to the Reservation.

**52.** See the responses to comments No. 12 and No. 50 above.

1 the map on the water quantity part of it?

2 MR. PARR: Yes, I do.

3 MR. CAPOSELLA: Would you put that up? I'm Peter  
4 Caposella. I'm a lawyer for the tribe. I was going to --  
5 (interruption). I spoke last night and that's exactly the  
6 first thing they said, use the mike.

7 It's not my intention to continue to take your  
8 guys time up. I appreciate having meeting on the reservation,  
9 but I also thought that since there are tribal officials and  
10 community people here, that some of the points that I think,  
11 from the standpoint of tribal government, we're going to  
12 emphasize, I wanted to review.

13 Before I do that, though, I would like to invoke  
14 the name of a friend of mine who was a tribal leader at the  
15 beginning of this process, who is no longer with us. His name  
16 is Wade Vitilis. No small part of the reason we're here today  
17 discussing these issues was because of his leadership, and  
18 that is appropriate for me to recognize Wade as a part of  
19 today's proceedings.

20 Knowing that the foresight that he had in  
**53** 21 promoting this process, [I think it's important that the  
22 Environmental Impact Statement not be preordained formally,  
23 as to what is going to happen; that it not be a whitewash of  
24 the issues that the tribe is raising.]

25 And I also think that it's important that the

**53.** The OST was consulted in 1997 when contract negotiations for the Angostura Unit was first brought up; this EIS is being done at the behest of the OST; the Tribe is a cooperating agency in the NEPA process, reviewing every draft produced of the EIS; scoping meetings and public hearings have been held on the Reservation; and the OST was contracted to provide information for the EIS. The Tribe, in other words, has had many opportunities to influence this EIS.

1 testimony today not be -- much of the testimony not be  
 2 considered, quote, outside of the scope of the study or  
 3 outside of the process, or to take the position that maybe  
 4 we'll deal with some of the concerns that were raised by  
 5 tribal leaders and tribal members today in different studies;  
 6 that they don't have anything to do with the contracts so  
 7 we're not going to deal with them. But to consider them as  
 8 central to the study as any other comments received at any  
 9 other hearing.

10 I'm going to talk too fast anyway. The tribe  
 11 has a lot of concerns with these books, and there was a  
 12 public hearing on these books in Hot Springs last night, and  
 13 of course that's in closer proximity to the Angostura  
 14 Irrigation District, and there was near unanimity in the  
 15 presenters that this book is a good thing, and that they  
 16 support the book the way it's presented. They like it to be  
 17 finalized the way it's presented.

18 And I don't think that the tribal environmental  
 19 specialist Emma and Kim that have looked at this, nor myself  
 20 looking at it from a legal perspective, are very happy with  
 21 it. We've reviewed it with President Steele, and our  
 22 position differs substantially from the irrigators.

23 So it looks like right now, and I think you're  
 24 beginning to get this from the feedback at the public  
 25 hearings, the farmers are happy with the Draft Environmental

1 Impact Statement, and the Indians are unhappy with the Draft  
 2 Environmental Impact Statement, so there's some issues there.

54 3 [So what direction is the Bureau of Reclamation  
 4 going to go in from here on out, knowing that the Draft  
 5 Statement that's formally been released is determined to be  
 6 satisfactory from the standpoint of the farmers, but  
 7 unsatisfactory from the standpoint of the Oglala Sioux Tribe.  
 8 That's where we stand today.]

9 And I think part -- the theme of the testimony  
 10 that the Bureau of Reclamation has heard today is that we do  
 11 want some significant changes, and I would like to go through  
 12 the book a little bit and identify some areas that I think we  
 13 want to change.

14 But before we do that, I'm going to tell a  
 15 story. A couple months ago -- I have a 17 year-old son who  
 16 lives in the north central part of the state. I live in  
 17 Rapid City, so he comes and visits every couple weeks. And a  
 18 few months ago he said, well, you know, dad, I got my license  
 19 now. I have two vehicles, a truck and a Forerunner. He  
 20 said, Let me take the Forerunner and I'll bring it back. You  
 21 don't have to be driving back and back, I'll just take the  
 22 Forerunner.

23 And so we had some discussion, and sure enough  
 24 he had a big date and he needed wheels. So we made an  
 25 agreement, I get that vehicle back in a couple days, no

54. The EIS presents a range of alternatives in an unbiased manner for consideration of decision-makers and the public, as required by NEPA.

1 problem. So I talk to him every couple days, and it came  
2 time for him to bring the vehicle back and I said, Well, son,  
3 you know I look forward to seeing you tomorrow, and I look  
4 forward to seeing my Forerunner.

5 He said, Well, what do you need the Forerunner  
6 for? Why do you need the Forerunner, you never use it. What  
7 uses do you have for the Forerunner, and when are you going  
8 to use it? I said, Hey, hey, hey, firstly when you took those  
9 wheels it was, dad, thanks for everything, you know, I have a  
10 big date and I want to save you the traveling, and I'll get it  
11 back to you on time. It wasn't when are you going to use the  
12 Forerunner and what do you need it for. It's mine. He took  
13 it. I want it back. I don't have to explain to you when I  
14 use it, what I'm going to use it for.

55 15 [I don't know if the tribe will focus on it. I  
16 know the BOR got it because what they are saying to the tribe  
17 right now is, okay, you're telling us that we have this water  
18 stored at Angostura Dam that we provide it for the withdrawal  
19 from the river system for the irrigation, and why are you guys  
20 telling us to reestablish the natural flow? What are you  
21 going to do with the water? What time of the year do you want  
22 the water. And that sounded again useless from the point of  
23 the tribe.]

24 There are a lot of specific parts of the Draft  
25 Environmental Impact Statement that are objectionable. Some

55. See the response to comment No. 14 above.

1 are great big issues and some are comparatively smaller  
2 issues, although at times, too, little things have bigger  
3 implications. Sometimes it's hard to differentiate between  
4 the two.

5 One of the first things that's in the Draft  
6 Environmental Impact Statement is the map, okay. Now this  
7 map is in the book, and the Pine Ridge Reservation is here.  
8 Now when they first released the preliminary volume of this,  
9 this whole thing was yellow. And then there was a meeting  
10 between all the different cooperating agencies. And the  
11 State of South Dakota said this part here shouldn't be  
12 yellow. It's not within the boundaries of the reservation;  
13 that's Bennett County. And we said no, no, no, leave it as  
14 it is.

15 See how they marked it, and then they have --  
16 I'll read it. Bennett County was withdrawn from Pine Ridge  
17 Reservation by Act of May 27, 1910; however, the county still  
18 contains significant acreage of tribal trust lands and  
19 individual Indian allotments. The Tribal Council recognizes  
20 Bennett County as the LaCreek and Pass Creek Districts.  
21 Tribal members of each District elect a representative to the  
22 Council.

56 23 [That is obviously different than what the Oglala  
24 Sioux Tribes want to be on this map. And one of the things  
25 that we'll ask in the formal comments that the tribe submits

56. Reclamation believes Figure 1.1 in the EIS accurately depicts the Pine Ridge Reservation. It shows that Bennett County contains significant acreage of Tribal and allotted lands.

1 is to take this stuff out and just paint that yellow.】 Bureau  
 2 of Reclamation has funded NEPA documents in the past that  
 3 include that as within the reservation, but the state didn't  
 57 4 complain, so there was no issue. 【We don't think you should  
 5 change just because some officials from the State of South  
 6 Dakota complained. And we're going to ask that this map be  
 7 changed.】

8 Again, here's one little example where if the  
 9 tribe wants one thing and other people want something else,  
 10 they are going to do what the other people want, regardless of  
 11 what the tribe wants.

12 I'm going to go through some parts of  
 13 Environmental Impact Statement just to give you a sense of  
 14 some of the specific things that are problematical from the  
 15 standpoint of the tribe. Now of course we've heard many  
 16 speakers talk about the preference, the preferred alternative  
 17 from the standpoint of the tribe, and explaining why that  
 18 preferred alternative is the reestablishment of the natural  
 19 flow of the river.

20 In talking about how reestablishing the natural  
 21 flow of the river would affect the socioeconomics of the area  
 22 in the Draft Environmental Impact Statement, the Bureau of  
 23 Reclamation states, If the natural flow of the Cheyenne River  
 24 is reestablished, quote, reservation economic conditions  
 25 might be adversely affected by loss of income and jobs in

1 agriculture and recreation, to the extent that income from  
 2 these sectors affects the reservation.  
 58 3 【What they are saying here is that doing what  
 4 you're asking will hurt you economically because so many of  
 5 you are employed up at the Angostura project. Now they know  
 6 better for you than you do.】 And that's been a big part of  
 7 the history sense. They showed up in the first place a  
 8 couple hundred years ago. But that's difficult to swallow,  
 9 to suggest that so many Indians work up there that the  
 10 economy on the reservation actually would be adversely  
 11 affected.

12 The chairperson for Red Shirt Community came  
 13 and explained how Angostura affects the community on the  
 14 reservation that's most directly impacted by the river, and  
 59 15 it differs from that sentence significantly. 【And so the  
 16 tribe clearly does not believe that reestablishing the  
 17 natural flow will have a detrimental impact on the  
 18 reservation socioeconomically.】

19 I do think it would be real easy to find out.  
 20 Number one, it's not impossible that there would be Native  
 21 Americans that are members of the Irrigation District. I  
 22 don't think there are, but it would be easy to find out; also  
 60 23 if there are any employed by the district. 【And so rather  
 24 than guessing and suggesting that Indians don't know what's  
 25 best for them, I think it would be better just to look】and

57. See the response to the comment directly above.

58. Reclamation contracted with the OST to provide social-economic information on the Reservation, particularly the Red Shirt area, for the EIS (the Tribe's report is in Appendix Z). Reclamation used other studies and computer modeling for the social-economic analysis (pp. 83-85 of the EIS).

Economic connections between agricultural production and/or recreation and the Reservation is through secondary spending associated with these activities. Secondary spending is represented by people who work in agricultural-related services spending money at the Tribal casino or buying gas or other goods on the Reservation. Secondary spending could also occur from people driving through the Reservation to reach the reservoir. These secondary spending impacts would be very difficult to quantify and could well be very small. A more detailed description of these impacts will be added to the final EIS.

59. See the response to the comment above.

60. The draft EIS did not state that the OST directly received revenues from irrigated crops or from recreation associated with the reservoir. See the response to comment No. 58.

1 see if there are any Indians working up there.

2 President Steele read from the Environmental

61 3 Impact Statement also, [Both OST and CRST probably have claims  
4 to the water of the Cheyenne River under the Winters  
5 Doctrine. That is such -- that language is so weak as to be  
6 misleading and inaccurate, and it has the effect on the  
7 reader of understating or trying to down play Indian water  
8 rights under the Winters Doctrine, and that's an  
9 objectionable sentence.]

10 There's also a concern, and this is one of the  
11 big parts of why the tribe requested the Environmental Impact  
12 Statement in the first place, is the vegetation in the  
13 riparian corridor, and I will read from the Draft EIS. It

62 14 says, [It appears unlikely that reported declines in local  
15 abundance and distribution of American plum, common  
16 chokecherry, and buffaloberry on the reservation are linked  
17 to the Angostura Unit. Decline in abundance and distribution  
18 is likely related to land management practices on the  
19 reservation, such as grazing and fire.]

20 So again they are blaming the tribe for what  
21 they characterize as perceived declines in the abundance of  
22 these fruits and berries. Kim Clausen mentioned earlier the  
23 conflict between hard data that the Bureau of Rec is relying  
24 on in its analysis and the oral history and interviews that  
25 took place from community members in Red Shirt Community.

61. See the responses to comments No. 14 and No. 42.

62. See the response to comment No. 12.

1 That's a very difficult sentence for the tribe to swallow,  
2 that perceived declines are due to land use practices by  
3 Indians.

63 4 Now, there's also been public testimony today  
5 about lesions on fish at Red Shirt, and [in this book on the  
6 issue of the fish and lesions on the fish it says that  
7 analysis indicates there may be low dissolved oxygen at times  
8 in the river near Red Shirt. They acknowledge there might be  
9 some environmental water quality problems at Red Shirt.  
10 Causes of the low dissolved oxygen have not been determined --  
11 here now they start a blaming the tribe -- but an OST  
12 consultant suggested sewage from the Red Shirt water treatment  
13 plant, and then, okay, they make a grammatical error, but the  
14 intent of that sentence is to blame the tribe. They should  
15 say sic in there; they would say sic in there.]

16 What they are doing, though, is blaming the  
17 infrastructure on Red Shirt Community. They are blaming the  
18 tribe for not taking better care of the water and sewer  
19 facilities as being the cause of the lesions and they are  
20 saying that a tribal consultant came up with those  
21 conclusions. Well, actually there's a long excerpt in there.  
22 It's a letter from an official from the State of South Dakota  
23 saying that.

24 If you look at the report that was done by the  
25 tribe's consultant, somebody quoted earlier environmental

63. A study of fish health was done for the EIS, which sampled fish tissue (including some caught near Red Shirt) heavy metals, trace elements, and organic contaminants, including herbicides, pesticides, insecticides, and PCB's (see pp. 70-73 of the EIS). None were found above standards. This section of the EIS included the quote from the OST report because it provided an excellent description of the lesions reported on the fish, and offered an explanation of their probable origin. Reclamation is satisfied that the fish study supports the conclusion that the Angostura Unit is causing no effects to fish at Red Shirt.



1 stress caused by a number of factors, including low water  
2 flows and cold water in the river as possibly contributing to  
64 3 the reduced health of the fish population. [I think the  
4 actual fact of the matter is nobody really knows. And so we  
5 want more studies before long-term decisions are being made.]

6 But again this is an example where they took a  
7 complaint or a concern that was raised by the tribe and they  
8 are turning it around and blaming the tribe for the problem  
9 that the tribe identified in the first place. Nobody would  
10 know or care about the lesions in the fish unless the tribe  
11 made an issue of it. Yet now they are blaming the tribe for  
12 the concern that the tribe itself raised.

13 Finally, Emma Featherman testified about the  
14 environmental injustice, and the no action alternative means a  
15 25-year long term water delivery contract with the Angostura  
16 Irrigation District on terms that are essentially similar, or  
17 comparable to the existing terms of the irrigation. And in  
18 the Draft Environmental Impact they say the no action  
19 alternative would not change the present condition; therefore,  
20 it would not place an undue burden on minority or low income  
21 populations.

65 22 [We think that kind of circular reasoning begs  
23 the question. We think that the status quo does  
24 disproportionately impact minority populations, the Native  
25 American community at Red Shirt.] We think that we've

64. See the response to the comment above.

65. See the response to comment No. 50.

1 identified a number of ways in which it does that: Water  
2 quality in the river, reduced vegetation, declining health  
3 of the fish population, and the fact that there is upwards of  
4 12 million dollars annual national economic benefit from the  
5 Angostura project immediately off reservation; but none of  
6 those benefits are enjoyed on the reservation.

66 7 [We have already demonstrated that, in fact,  
8 status quo does have disproportionate impacts, negative  
9 impacts on Native Americans on this reservation, but that's  
10 being rejected in this study.]

11 So up until this point with the draft study  
12 that's on the table they are going to take public comment, as  
13 they are today. Obviously they are making efforts to obtain  
14 public comments from the tribe, and that's commendable and  
15 that's real helpful. It gives us the opportunity to have our  
16 own forum, to come and explain the concerns, not only that  
17 the tribal government has, but that community members have as  
18 well in Angostura.

19 But, you know, it's not an isolated thing, as  
20 President Steele started the public hearing out by  
21 explaining. I said at the scoping meeting four years ago in  
22 this room, there was a map up like this, and I said the  
23 reservation boundaries are not on the map, but there's a lot  
24 of dams on the map, so you don't need the reservation  
25 boundaries because the reservations are located where the

66. In the EIS, Reclamation examined the issues brought forth by the OST during scoping meetings and at other points during the EIS process. These issues were analyzed in an unbiased manner, as can be seen in the EIS. None were found to have been an effect of the alternatives.

1 dams are. That's not a coincidence, the proximity of  
2 Angostura Dam immediately above the Pine Ridge Indian  
3 Reservation. They did this on purpose.

4 And I want to read a quote that's in the  
5 appendix, because I think it kind of crystalizes the history  
6 of it, and in some ways provides a blueprint for what needs to  
7 happen in the future. So I appreciate your bearing with me  
8 while I read this quote. Following the Winters case more than  
9 50 years lapsed before the Supreme Court again discussed  
10 significant aspect of the Indian water rights. During most of  
11 this 50-year period the United States was pursuing a policy of  
12 encouraging the settlement of the west and creation of  
13 family-sized farms on its arid lands.

14 In retrospect it can be seen that this policy  
15 was pursued with little or no regard for Indian water rights  
16 in Winters Doctrine with encouragement, or at least  
17 cooperation of the Secretary of the Interior, the office  
18 entrusted with the protection of all Indian rights, many  
19 large irrigation projects were developed on streams that  
20 flowed through or bordered Indian reservations. With few  
21 exceptions the projects were planned and built by the federal  
22 government without any attempt to define, let alone protect,  
23 prior rights that Indian tribes might have had in waters used  
24 for the projects.

25 In the history of the United States government,

67

1 treatment of Indian tribes, it's failure to protect Indian  
2 water rights for use on the reservations set aside for them is  
3 it one of the sorrier chapters. [The question with this  
4 environmental impact statement is whether you're going to  
5 rewrite this sorry chapter and revise it and turn it around,  
6 or continue it. The books that are on the table now would  
7 indicate that the plan is to continue it. Obviously we want  
8 to see some changes.]

9 Again, I took some time last night in Hot  
10 Springs. I participated in the meeting in Rapid City. I  
11 appreciate your guys indulging me, and I had a long period  
12 tonight. I don't know if anyone else wants to testify, but  
13 I appreciate your hearing me out and community members  
14 hearing me out. We're going to continue to work on this to  
15 try to protect your guys rights. So thank you all for  
16 coming and thank you for hearing me out this afternoon. I  
17 don't know if anybody else has any testimony to present.

18 MR. WHITE ELK: I don't have any overheads or  
19 whatever. I have a question, I guess. I have a question, who  
20 set this up? Who is responsible for setting this up?

21 MR. PARR: Bureau of Reclamation.

22 MR. WHITE ELK: I guess I charge the Bureau of  
23 Reclamation with reckless, I guess, disrespect for the culture  
24 of the Lakota people, by the language I'm talking. This is  
25 your language; this isn't mine.

67. Reclamation conducted the EIS process in an open and above-board manner inviting participation from all of the parties interested in water management at Angostura Reservoir. The alternative selected as the Preferred Alternative in the final EIS will be chosen in similar manner. (See also the response to comment No. 50 above.)

1 (Speaking Lakota.)

2 My name is Charles White Elk with the Oglala  
3 Sioux Tribe, and I guess I would like to reiterate the  
4 irresponsibility of the Bureau of Reclamation, about the  
5 disrespect that they have for our culture, our language. We  
6 have two elderly with really strong minds that spoke today,  
7 whose first language is the Lakota language.

8 Some of the best ideas that come out from the  
9 elderly and from what I seen today, minimizing those two  
10 elderly that spoke because this has to be recorded. If you  
11 get a recorder that can understand the Lakota language, that  
12 would be nice. I guess a lesson for the learning, something  
13 like that, we sure would appreciate if you would bring a  
14 recorder that could understand the language and culture.

15 The other thing that I talked about was my  
16 language. My grandmother and my mother, my father and  
17 grandfather raised me with my language. Every time they said  
18 something to me it was in my language; that's part of me,  
19 part of my culture. One of the things that my grandmother  
20 said, if you ever dam up a creek, if you ever dam up a stream  
21 or a river, you're going to see a lot of sickness come out of  
22 it. That's what they were talking about today. You see a  
23 lot of that; just common sense, I guess.

24 When I went to boarding school, and I was going  
25 to go to boarding school, my grandmother asked me, never

1 forget my language, which happened pretty good because I  
2 spoke the language. I wouldn't stop speaking, and I still  
3 won't. The reason for that is because that's mine. God gave  
4 that to me.

5 I asked her why; she said when God created the  
6 Lakota people he gave them language, gave them language and  
7 culture so they can pass that on from generation to  
8 generation. He gave them this land to watch over, so that  
9 they can live. Up to this day we're still that way, past a  
10 thousand years. I guess we had it pretty rough the last part  
11 of the past thousand years, but we still talk our language.  
12 We still have our culture.

13 And I feel for those people that are from Hot  
14 Springs, it's one of the things that was taught to me was to  
15 be empathic with those that are having a hard time. All of  
16 us are under the federal government; that's what they think.  
17 One of the things that BOR needs to realize and understand is  
18 that we're our own country. We're our own nation. So thank  
19 you very much. I appreciate it, and I'll go ahead and write  
20 something after I get done writing it -- or after my wife  
21 gets done writing it.

22 MS. CLAUSEN: I helped the Bureau of Rec set  
23 this up, so we did bring George so we couldn't find anybody  
24 that could do that, but they were afforded the opportunity to  
25 speak the language, and it would have been translated back.

1 So we did do that. Anybody else?  
2 MR. PARR: If there's no other individuals that  
3 would like to provide some comment, then this will end our  
4 public hearing for tonight. But I would like to just take  
5 some time here, if you have questions such as the history of  
6 the district and when that was founded, we would like to  
7 spend some time with you on that and provide that for you.  
8 We have Curt Anderson and myself and other individuals here  
9 that we can do that for you, with you.  
10 If there are no other comments, then this public  
11 hearing is concluded. Thank you very much.  
12 (End of public hearing for February 15, 2001.)  
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